**REMARKS**

Amendment

Applicant has amended claims 1 and 3 and cancelled claim 2 without prejudice. In particular, claim 1 has been amended and claim 2 has been cancelled to conform the claims to the scope elected in response to the previous election of species, which has been made final. Further, claim 3 has been amended to be dependent upon claim 1. No new matter has been added by the amendments. A version of the claims showing the changes made by the above amendments is enclosed herewith under the heading "Version With Markings To Show Changes Made."

Upon entry of this amendment, claims 1 and 3-41 will be pending. Applicant respectfully reserves the right to file continuing applications with respect to the withdrawn subject matter.

Rejection under 35 U.S.C. §103(a)

Reconsideration is respectfully requested of the rejection of claims 1-41 under 35 U.S.C. §103(a) as obvious over Campbell et al., "D-methionine Provides Excellent Protection from Cisplatin Ototoxicity in the Rat," Hearing Research, 102, 90-98 (1996).

As defined in claim 1, the present invention is directed to a method for preventing or treating ototoxicity in a patient exposed to noise for a time and at an intensity sufficient to result in ototoxicity. In particular, Applicant has discovered that administration of an effective amount of an otoprotective agent comprising a compound containing a methionine or a methionine-like moiety to a patient can prevent or treat ototoxicity when the patient is exposed to noise at a level or for a duration that would cause ototoxicity.

In order to establish a *prima facie* case of obviousness, the Patent Office must establish, among other things, that the prior art teaches or suggests all of the claim limitations. The cited reference, Campbell et al., describes the testing of D-methionine

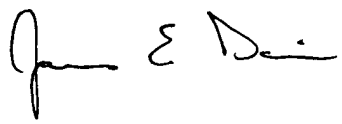
for preventing ototoxicity in male rats caused by the chemotherapeutic agent cisplatin. The reference is entirely devoid of any mention of ototoxicity caused by exposure to noise as required by the instantly claimed invention. Further, nothing in the reference remotely teaches or suggests what effect, if any, D-methionine would have with respect to ototoxicity caused by exposure to noise. Because the cited reference does not provide any teaching, suggestion or motivation as to treating or preventing ototoxicity caused by exposure to noise, Applicant respectfully submits that the reference relied on by the Examiner fails to establish a *prima facie* case of obviousness with respect to claim 1. Withdrawal of the rejection and early allowance is respectfully requested.

Claims 3-41, which are further directed to treating or preventing ototoxicity resulting from exposure to noise, are likewise submitted as patentable for the reasons set forth above.

Conclusion

It is not believed that any fee is required by the timely submission of this response. However, the Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment of fees to Deposit Account No. 19-1345.

Respectfully submitted,



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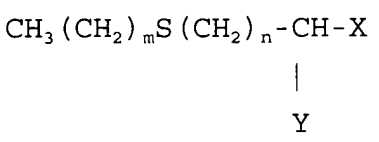
## Version With Markings To Show Changes Made

IN THE CLAIMS:

**Claim 1 has been amended as follows:**

1. (amended) A method for preventing or treating ototoxicity in a patient exposed to noise for a time and at an intensity sufficient to result in ototoxicity, the method comprising administering to said patient an effective amount of an otoprotective agent comprising a compound containing a methionine or a methionine-like moiety having the structural formula:



wherein m is an integer from 0 to 3; n is an integer from 1 to 3; X = $-COOR^1$; Y = $-NR^2R^3$; $R^1$ = H or a substituted or unsubstituted, straight or branched chain alkyl group having 1 to 6 carbon atoms; $R^2$ = H or a substituted or unsubstituted, straight or branched chain acyl group having 1 to 6 carbon atoms; and $R^3$ = H or a substituted or unsubstituted, straight or branched chain acyl group having 1 to 6 carbon atoms; or a pharmaceutically acceptable salt thereof.

**Claim 2 has been cancelled.**

**Claim 3 has been amended as follows:**

3. The method of claim [2] 1, wherein said otoprotective agent is selected from the group consisting of D-methionine, L-methionine, a mixture of D-methionine and L-methionine, methioninol, hydroxy methionine, ethionine, S-adenosyl-L-methionine, a pharmaceutically acceptable salt thereof, and a combination thereof.